

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: CHOW et al.

Title: MECHANICALLY ACTIVATED OBJECTS FOR
TREATMENT OF DEGENERATIVE RETINAL DISEASE

Appl. No.: 10/822,437

Filing Date: 4/12/2004

Examiner: Michael A. Brown

Art Unit: 3772

Confirmation 1437

Number:

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed January 07, 2008, Applicant hereby provisionally elects Group II (claims 4-26) for examination, with traverse.

In this case please note that claim 1 does indeed represent a generic claim. Claim 1 recites a mechanically activated object for chronic irritation of an eye. The "mechanical" activation of the object therefore involves a mechanical stimulation, as opposed to an electrical stimulation as is known from the prior art. A mechanical stimulation necessarily involves movement.

As stated in paragraph [0006] at page 2 of the present application, "...devices in accordance with the present invention provide stimulus/irritation to tissues of an eye through active mechanical forces to effectuate treatment of a degenerative retinal disease" (emphasis

added). Furthermore, as stated in paragraph [0026] at pages 4-5 of the present application, “Although prosthetic electrical devices designed to replace damaged or missing retinal cells have been used to treat vision loss caused by outer retinal degeneration, physical stimulation to improve large areas of retinal cell visual function is novel” (emphasis added). Accordingly, we submit that claim 1 should be considered a generic claim covering the subject-matter of claim 4.

It is respectfully requested that the restriction requirement be withdrawn, and each of Claims 1-26 presently pending in this application be examined.

Respectfully submitted,

Date March 7, 2008

By /Keith D. Lindenbaum/

FOLEY & LARDNER LLP
777 E Wisconsin Avenue
Milwaukee, Wisconsin 53202-5306
Telephone: (414) 297-5772
Facsimile: (414) 297-4900

Keith D. Lindenbaum
Attorney for Applicant
Registration No. 40,365